

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-137-W/S - ORDER NO. 97-540
JUNE 25, 1997

IN RE:	Application of Tega Cay Water)	ORDER
	Service, Inc. for Approval of)	DENYING
	an Increase in Rates and Charges)	PETITION FOR
	for Water and Sewer Service.)	RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina ("the Commission") on the Petition for Reconsideration of Order No. 97-407 ("the Petition") filed by Tega Cay Water Service, Inc. ("the Company"). By its Petition, the Company requests that the Commission reconsider its Order No. 97-407 (dated May 15, 1997) by which Order the Commission denied the Company's request for approval of a letter of credit in the amount of \$680,000 which the Company had filed as a bond to enable the Company to collect its proposed rates and charges pending the action for judicial review in Tega Cay Water Service, Inc. v. South Carolina Public Service Comm. (97-CP-40-0923). The City of Tega Cay, South Carolina ("the City"), an intervenor and party of record in this Docket, filed a "Statement of Opposition to Petition for Reconsideration of Order No. 97-407." ("Statement of Opposition")

In Order No. 97-407, the Commission found that the letter of credit submitted by the Company was insufficient surety to insure

protection of the parties and the public as the letter of credit has an expiration date of one year from the date of issuance. (Order 97-407, p. 3) The Company acknowledged that the expected time for final disposition of the appeal is two years. (Order 97-407, p. 3)

By its Petition for Reconsideration, the Company proposes that "not less than thirty (30) days prior to the expiration of the original letter of credit, the Company will arrange for the issuance of a second irrevocable letter, substantially identical in form and amount to the original letter of credit, which will bear an expiration date of April 30, 1999." (Petition, p. 2) Further, the Company proposes "to extend further the letter of credit beyond the date of April 30, 1999, or secure another letter of credit should the appeal remain pending as of that date." (Petition, p. 2)

By its Statement of Opposition, the City argues that the Company's proposed surety is useless to protect the public as "the Company has offered no binding commitment by any bank or other financially responsible institution to issue a replacement letter of credit in a year's time, nor have they [the Company] described what the terms, exceptions, limitations, or creditworthiness of such a currently-unknown replacement letter of credit would be." (Statement of Opposition, p. 2) The City further contends that "the replacement letter of credit (or even a subsequent replacement letter of credit) would be the one actually relied upon in the event the Commission is upheld and a refund is

necessary." (Statement of Opposition, p. 2) Therefore, the City argues that "the Company's request is really a request that the Commission rule that an unknown letter of credit from an unknown bank that may or may not be available a year from now is, despite all that uncertainty, adequate security to protect the residents of the City of Tega Cay." (Statement of Opposition, p. 2) The City concludes its argument by asserting that is is "inappropriate for... the Commission to give blind approval to an offer of security when the security that may have to be drawn upon is not proffered, is not committed to by any responsible financial company, is subject to currently unknown terms and conditions, is of unknown creditworthiness, and may not be available to the Company at all when the time comes." (Statement of Opposition, pp. 2-3)

Upon consideration of this matter, the Commission concludes that the Petition for Reconsideration should be denied. As noted in Order 97-407, S.C. Code Ann. §58-5-240 (Supp. 1996) provides the mechanism for a utility desiring to put the rates requested into effect under bond during an appeal. S.C. Code Ann. §58-5-240 (Supp. 1996) specifically provides that the "bond must be in a reasonable amount approved by the Commission, with sureties approved by the Commission ...". The Commission finds that the letter of credit proposed by the Company is not a sufficient bond.

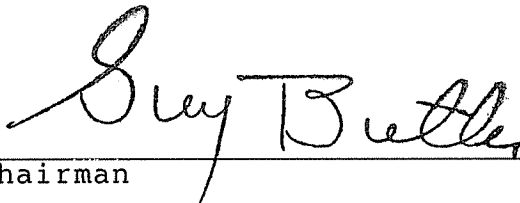
The Company's proposed letter of credit expires one year from issuance or April 30, 1998. The Commission concludes that the Company's proposal that it will arrange for the issuance of a

second irrevocable letter which will bear an expiration date of April 30, 1999, is not sufficient to insure protection of the parties and the public. An "arrangement" as proposed by the Company would require "blanket" approval by the Commission of a letter (or letters) of credit to be obtained in the future. Commission approval would be required without the Commission knowing the exact terms and conditions of the letter of credit. The Commission is not willing to give such "blanket" approval on a "bond" to secure possible refunds owed to customers. The Commission does not believe that an arrangement where the Commission would be granting approval of a document that has yet to be drawn and that is not presented to the Commission would be in the public interest or would adequately protect the public.


IT IS THEREFORE ORDERED THAT:

1. The Company's Petition for Reconsideration of Order No. 97-407 is denied.
2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)